United Nations A/72/565

General Assembly

Distr.: General
1 November 2017

Original: English

Seventy-second session
Agenda item 54
Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

Report of the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 71/98. It focuses on Israeli practices affecting the human rights of Palestinians in the Occupied Palestinian Territory, including East Jerusalem, with a particular focus on the use of force, detention and collective punishment practices, the situation of human rights defenders and the continuing lack of accountability for violations of international human rights law.

17-19302 (E) 061117

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I. Introduction

1. The present report covers the period from 1 June 2016 to 31 May 2017 and is based on monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory, with additional information collected by other United Nations entities and non-governmental organizations. It should be read in conjunction with other reports of the Secretary-General and the High Commissioner (see A/71/364, A/HRC/34/36 and A/HRC/34/38).

2. Although there were notably fewer incidents of violence and casualties than in the previous reporting period, the situation in the Occupied Palestinian Territory remained tense and unstable. A total of 63 Palestinians, including 20 children, were killed and 1,446 injured, while 13 Israelis, including 1 child, were killed and 176 injured.[1]

3. There were noticeably reduced attacks against Israelis in the West Bank, including East Jerusalem, compared with the previous reporting period. Most attacks appeared to be conducted by young unaffiliated Palestinians. There was also a significant decline in the number of clashes, demonstrations and search and arrest operations compared with the previous reporting period. However, serious concerns remained over the alleged use of excessive force and unlawful killings, including extrajudicial executions, by Israeli forces in response to attacks and during clashes.

4. In the Gaza Strip, the 2014 ceasefire continued to hold, with few hostilities-related casualties. Palestinian casualties in the context of law enforcement were also relatively fewer than in previous years. However, the continuation of the Israeli blockade[2] and closures amidst the deepening intra-Palestinian political division during the reporting period has had serious humanitarian implications for the residents of Gaza. In particular, the closure in mid-April of the Gaza power plant due to a dispute between the Palestinian Authority and Hamas over taxation on fuel has led to significant cuts to electricity (only four hours of electricity a day),[3] significantly exacerbating a crisis in utility services, including water and water treatment services.[4] Hospitals in Gaza are also working at minimal capacity, risking the lives of vulnerable patients.[5]

II. Legal framework

5. A detailed analysis of the applicable legal framework can be found in the report of the Secretary-General to the Human Rights Council (A/HRC/34/38, paras. 3–11).

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[1] Data collected and provided by the Office for the Coordination of Humanitarian Affairs and the United Nations Children's Fund.

[2] The term "blockade" is used to describe the imposition by Israel of prolonged closures and economic and movement restrictions in the Gaza Strip; see A/HRC/34/38, para. 30.

[3] Statement by the Humanitarian Coordinator, Robert Piper, on the electricity crisis in Gaza, 19 May 2017. Available from www.ochaopt.org/content/statement-humanitarian-coordinator-robert-piper-electricity-crisis-gaza.

[4] "The humanitarian impact of the Gaza electricity crisis, May 2017", 4 May 2017. Available from http://reliefweb.int/report/occupied-palestinian-territory/humanitarian-impact-gaza-electricity-crisis-may-2017.

[5] Monthly humanitarian bulletin, April 2017, 10 May 2017. Available from www.ochaopt.org/content/monthly-humanitarian-bulletin-april-2017.

III. Implementation of General Assembly resolution 71/98

A. Use of force in the context of law enforcement

6. Instances alleging the use of excessive force by Israeli security forces[6] in the context of law enforcement, in particular the common resort to firearms in situations in which their use may have been unwarranted, have been previously reported.[7] The Secretary-General and the High Commissioner for Human Rights have consistently raised concerns over such incidents during the past two years.[8] These concerns remain as the nature and type of alleged instances of violations suggest that there has been little change in policy or practice on the ground during the reporting period.

7. In the unilaterally imposed access-restricted areas around Gaza, 2 demonstrators were killed in separate incidents along the fence, while over 90 persons, including 13 children and 2 women, were injured, largely during Friday weekly demonstrations and clashes. Of the injured, 62 were shot with live ammunition.[9] For example, on 24 February 2017, a 16-year-old boy was seriously injured after being shot with live ammunition in his left leg. At the time, he was approximately 150 m from the fence in the central Gaza Strip, reportedly only watching the clashes.

8. There are similar concerns with respect to enforcement of the access-restricted areas off the Gaza coast, where 20 fishers were reportedly injured as a result of the use of firearms by the Israel Defense Forces during the reporting period.[10] One 25-year-old fisherman was killed on 15 May 2017 when his boat was fired at by the Israeli navy off the Sudaniyah coast, in the northern Gaza Strip. Three others on the boat were rescued by another fishing boat. According to the Israel Defense Forces, they fired after the boat "deviated from the permitted fishing zone, and continued its advance, despite warning calls and shots in air".[11] Although the fishers who were on the boat corroborated the warning calls and shot, they claimed that the incident took place well within the Israeli-imposed fishing limit of six nautical miles. The Israel Defense Forces reportedly launched an investigation into the incident. Regarding the use of live fire, Israeli authorities have claimed that Palestinian militant groups in Gaza allegedly attempt to smuggle weapons by sea, including using fishing vessels.[12] Incidents of the Israeli navy firing at Palestinian fishing vessels are a frequent occurrence, often resulting in damage to the vessels, injuries and, in a few cases, death. Such incidents raise concerns whether the rules of the Israeli security forces on the use of force were complied with, or whether those rules are consistent with international law and standards.

9. In Israel and the West Bank, including East Jerusalem, 62 Palestinians were reportedly shot dead by Israeli security forces (39 of them while carrying out or allegedly carrying out attacks against Israelis), while a further 372 were injured with

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[6] The Israeli security forces comprise the law enforcement, military and intelligence agencies of Israel.

[7] A/71/364, paras. 12–13; A/HRC/34/36, paras. 8–11; A/HRC/31/40, paras. 21–25; and A/70/421, paras. 30–32.

[8] A/71/364, paras. 8–16; A/HRC/34/36, paras. 7–17; and A/HRC/31/40, paras. 10–28.

[9] Information directly from Al-Mezan Centre for Human Rights.

[10] Ibid.

[11] Associated Press, "Gaza fisherman killed by Israeli fire, IDF probing incident", 15 May 2017. Available from www.ynetnews.com/articles/0,7340,L-4962549,00.html.

[12] Judah Ari Gross, "Israel nabs Hamas man who tried to smuggle explosives into Gaza", 13 September 2016. Available from www.timesofisrael.com/israel-nabs-hamas-man-trying-to-smuggle-explosives-into-gaza/.

live ammunition.[13] A number of incidents during the reporting period strongly suggest unlawful killing. This includes the killing of a 17-year-old boy by Israeli security forces on 17 March in Arrub refugee camp near Hebron. According to eyewitnesses, the boy was running away after throwing a Molotov cocktail at a watchtower when he was shot in the back with live ammunition and died on the spot. According to some witnesses, the boy was shot by soldiers who appeared to be waiting for him nearby. There is no indication that the suspect, who was reportedly shot while running away, posed any imminent threat of death or serious injury at the moment that he was killed.

10. The Israeli security forces also continued using firearms against stone throwers, which in some circumstances appears to have constituted use of excessive force. For example, a 17-year-old Palestinian boy was shot dead by Israeli security forces on 16 January in the village of Tuqu', near Bethlehem. A spokesperson for the Israeli security forces claimed that the soldiers returned fire towards rioters who were throwing stones and firebombs. Eyewitness testimony collected by OHCHR, supported by video footage, indicates that the victim was more than 80 m away from the soldiers when they shot him.

11. In another instance, on 12 May, a Palestinian man was shot dead by the Israel Defense Forces in the West Bank village of Nabi Saleh during clashes. Video footage and eyewitness testimony received by OHCHR indicate that the man was sporadically throwing stones at soldiers from at least 70–80 m away. The soldiers had protective gear and sufficient cover, as they were positioned behind an abandoned building. A spokesperson for the Israel Defense Forces subsequently claimed that a "violent riot involving dozens of Palestinians hurling rocks at (Israeli army) forces" had taken place and that dispersal means, including firing live ammunition, had been used "in response to that imminent threat".[14] Similarly, a 26-year-old Gaza resident was shot in the chest with live ammunition on 18 November 2016 while throwing stones at the Israeli security forces near the Israel-Gaza fence.[15] While OHCHR monitoring found that there was only a short distance between the killed man and the Israel Defense Forces, the soldiers were fitted with protective gear and were standing behind military vehicles and did not appear to be at immediate risk.

12. Investigations have reportedly been announced by Israeli authorities into both the Arrub and Tuqu' incidents that resulted in the fatal shooting of children, but it is not clear whether the Nabi Saleh or the Gaza fence killings are being investigated (see sect. E).

13. The reported incidents with firearms against demonstrators where such use may not have been warranted has been consistently documented over the past two years.[16] Such incidents raise concerns as to whether the rules concerning the use of force, including the use of firearms, are consistent with international standards,[17] or whether there have been repeated failures to ensure that such rules are properly followed and adhered to by security forces operating on the ground. As previously

[13] Information directly from the Office for the Coordination of Humanitarian Affairs.

[14] Agence France-Presse and Times of Israel staff, "Palestinian shot dead in West Bank clash with IDF — medics", 12 May 2017. Available from www.timesofisrael.com/palestinian-shot-dead-in-west-bank-clash-with-idf-medics/.

[15] As monitored by OHCHR; a 16-year-old boy was killed in similar circumstances when hit in his head by a flare during a clash on 9 September 2016.

[16] A/HRC/34/36, para. 11; A/71/364, para. 12; and A/HRC/31/40, paras. 18 and 22.

[17] See Code of Conduct for Law Enforcement Officials, 1979, arts. 2 and 3; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, principles 5, 9, 13 and 14.

noted,[18] law enforcement officials may use force when strictly necessary and to the extent required for the performance of their duty.

14. For instance, on 7 May, Israeli security forces shot and killed a 16-year-old Palestinian girl at Damascus Gate in East Jerusalem. Although police sources claim that she tried to attack border police guards with a knife, according to eyewitnesses she did not attack the security forces but stood a few metres away shouting at them. The police, most of whom were positioned behind a chest-high metal barrier, began shooting when she refused to comply with the order to drop the knife,[19] without any attempt to use the less lethal weapons with which they were equipped. Witnesses recounted that the police continued to fire at her, even after she had fallen to the ground. Witnesses reported 10 to 20 gunshots to OHCHR, with at least 5 to 6 hitting a taxi parked nearby.

15. Previous reports have also highlighted such instances of the possible use of excessive force to "confirm kills".[20] Human rights non-governmental organizations have raised concerns that, irrespective of the rules on the use of force, including the use of firearms, there appears to be a policy that countenances the use of excessive force in circumstances where it may not be warranted, which has broader community and political support.[21] Such claims appear to be supported, for instance, by a demonstration at a police-community relations event held in the Israeli town of Ramat Hasharon one day after the deadly shooting of a teenage girl in East Jerusalem. Video footage of the event shows four policemen from special patrol units simulating how a "terrorist" is dealt with, by firing at the person repeatedly after the person has fallen to the ground.[22]

16. It is of grave concern that a number of Israeli leaders and officials have spoken in support of the use of lethal force against Palestinian assailants irrespective of the circumstances, which may detrimentally affect societal views on the acceptable levels of force in the context of law enforcement. This led the authors of a study to conclude that there appeared to be "a basic attitude of the Jewish public that at the time of terror attacks one can take the law into one's own hands".[23]

17. Previous reports of the Secretary-General have reiterated that, in law enforcement operations, the use of firearms must be limited to situations in which it is strictly necessary, that is, it should be a last resort, and only in response to an

[18] A/HRC/34/38, paras. 44–46.

[19] Judah Ari Gross, "Female assailant tries to stab cop in Jerusalem, is shot dead — police", 7 May 2017. Available from www.timesofisrael.com/female-assailant-tries-to-stab-cop-in-jerusalem-is-shot-dead/.

[20] A/71/364 and A/HRC/31/40.

[21] See e.g. Amnesty International Israel, "Shoot-to-kill policy", available from www.amnesty.org.il/en/cat/use-excessive-force-dispersal-demonstrations-west-bank/; Human Rights Watch, "Israel/Palestine: some officials backing 'shoot-to-kill'", 2 January 2017, available from www.hrw.org/news/2017/01/02/israel/palestine-some-officials-backing-shoot-kill; B'Tselem, "From trigger-happy to shoot-to-kill: Israeli security forces killed 101 Palestinians, incl. 31 minors in 2016", 20 April 2017 (with references to officials' statements), available from www.btselem.org/firearms/20170420_2016_fatalities; see A/71/364 (with references to officials' statements).

[22] Alexander Fulbright, "Today's lesson: police show 5th graders how to shoot a terrorist", 9 May 2017, available from www.timesofisrael.com/todays-lesson-police-show-5th-graders-how-to-shoot-a-terrorist/; Yaniv Kubovich and Ilan Lior, "Israel police's activity for fifth graders: how to verify an assailant is dead", *Haaretz*, 9 May 2017, available from www.haaretz.com/israel-news/.premium-1.788219.

[23] Ephraim Yaar and Chanan Cohen, "The peace index: August 2016", 7 September 2016. Available from www.peaceindex.org/indexMonthEng.aspx?num=308&monthname=August.

imminent threat of death or serious injury.[24] Use of force that does not comply with these principles and results in death may amount to an arbitrary deprivation of life.[25]

B. Practices raising concern of collective punishment

18. Practices that may amount to collective punishment, that is, penalizing persons for acts that they did not commit, continued. In addition to being expressly prohibited by international humanitarian law (e.g. Hague Regulations, art. 50, and Fourth Geneva Convention, art. 33), collective punishment violates international human rights law, in particular the right to a fair trial and other due process guarantees, including the principle of individual responsibility and the presumption of innocence.

19. A total of 16 family homes of Palestinians who carried out attacks on Israelis were punitively demolished or sealed during the reporting period, resulting in the forced eviction of 78 persons, including 30 children, thereby violating a range of rights, including the right to adequate housing.[26] Fadi al Qunbar, from the East Jerusalem neighbourhood of Jabal al-Mukabbir, carried out an attack on 8 January by driving a vehicle into a group of people in Jerusalem, which killed four Israeli soldiers. Al Qunbar was killed — his body has still not been returned to the family — but his family home was nonetheless punitively sealed on 22–23 March, leading to the forcible eviction of his wife and four children.[27]

20. As in previous instances of punitive sealing or demolition of family houses of attackers, the state attorney's office argued that the sealing of Al Qunbar's house was not a penalty for the attack, but rather was aimed at deterring further attacks.[28] In at least one case, the police district commander permitted the family members of one of the soldiers killed in the attack to attend the sealing; they were escorted by the police and were provided explanations of the actions taking place, which reiterated the punitive nature of the action.[29] As a result of public criticism, the practice was banned.[30]

21. The reporting period also saw an increase in the punitive revocation of East Jerusalem residency status as a form of collective punishment.[31] Following the above-mentioned attack on 8 January, 11 members of the Al Qunbar family had their residency status in East Jerusalem revoked on 25 January. Announcing the decision to the media, the Minister of the Interior of Israel said: "Let it be known to all who are considering carrying out an attack that their families will pay a heavy price for their actions and the consequences will be severe and far-reaching."[32] A further 11 other members of the extended Al Qunbar family had the renewal of their

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[24] A/HRC/34/38, para. 46.

[25] International Covenant on Civil and Political Rights, art. 6.

[26] International Covenant on Economic, Social and Cultural Rights, art. 11.

[27] Hamoked, "The house in Jabal Mukabber will be sealed: the HCJ justices overcame the discomfort involved in the severe harm caused to a young widow and her four children and unanimously approved the punitive sealing order", 26 February 2017. Available from www.hamoked.org/Document.aspx?dID=Updates1840.

[28] *Ahmed Qanbar et al. v. GOC Home Front Command*, HCJ 799/17, Respondent's Reply, para. 35. See www.hamoked.org/files/2017/1161842_eng.pdf.

[29] See letter dated 25 May 2017 from the Assistant Deputy Attorney General, available from www.hamoked.org/files/2017/1161843_eng.pdf.

[30] Even when not carried out collectively, this would be a violation of the right to liberty of movement and freedom to choose residence. See the International Covenant on Civil and Political Rights, art. 12.

[31] Danny Adeno Abebe, "Deri revokes residency status of Jerusalem terrorist's family", 1 October 2017. Available from www.ynetnews.com/articles/0,7340,L-4905413,00.html.

"military stay permits" delayed. The documents, which allow them to live in Jerusalem, expired on 5 March 2017. At the end of the reporting period, 10 of the permits had not yet been renewed and the files were reportedly with the Israel Security Agency (Shabak).

22. Among those who had their East Jerusalem residency revoked was 64-year-old Menwah Ahmad Hamdan al Qunbar, the mother of the attacker Fadi al Qunbar. She had received permanent residency status in 1988 after a family unification process, following her marriage to her East Jerusalem-resident husband in 1981. The day after the attack, personnel of the Israeli security forces gave her notice for a hearing at the Ministry of the Interior about her residency status. She informed OHCHR that she attended the hearing on 18 January. Although the notice was on the grounds that her marriage was bigamous and her residency was granted on the basis of false information, she alleged that this was not the focus at the hearing and that, instead, the discussion concerned the attack that her son had carried out and whether she supported or agreed with his actions. Menwah al Qunbar faces the risk of forcible transfer once her appeals against the revocation of her East Jerusalem residence permit are exhausted, which if implemented would constitute a grave breach of the Fourth Geneva Convention (arts. 49 (1) and 147). This, along with the other measures mentioned above, strongly suggests that these are punitive measures against the members of the extended Al Qunbar family in response to the attack carried out by their relative.

23. Collective punishment was not limited to the family members alone. In the aftermath of the attack, between 9 and 16 January, approximately 240 households living in 80 buildings in Jabal al-Mukabbir received notices of planning or zoning violations from the Jerusalem Municipality, putting them at risk of demolitions and forced evictions. The Office for the Coordination of Humanitarian Affairs also documented 12 non-residential structures demolished on the grounds of lack of building permits. Although this is not the first time that municipal authorities have taken such action in the neighbourhood, the intensity and extent of the measures and the particular timing of the action raise concerns that these ostensibly municipal actions were intended as punitive measures against the general population of the neighbourhood.

24. In another incident, an Israeli soldier was killed when a car rammed bystanders on 6 April near the Ofra settlement in the West Bank. The 23-year-old Palestinian attacker from Silwad was immediately arrested at the site; however, the Israel Defense Forces reportedly confiscated another car owned by the family and arrested the attacker's 17-year-old brother. He remains in administrative detention, without any charges against him, as a result of which he missed his final school examinations.

25. Immediately following the incident, at least five residents of Silwad reportedly had their work permits confiscated, while two other workers were sent back from the checkpoints when they attempted to cross into Israel for work. One of the men working in Jerusalem reported to OHCHR that Israel Defense Forces soldiers came to his house at 3 a.m. on 7 April and asked whether he had a work permit. They then took it away and asked him whether he knew about the attack near Ofra the day before. The man told OHCHR that his permit was similarly confiscated previously in October 2016, when another car-ramming attack took place.

26. Over the next two weeks, the Israel Defense Forces conducted at least three more operations in Silwad, confiscating 20 cars claimed to be stolen, as well as money from various families, alleging that it was financial support for or from Hamas. Among several such cases covered by the Office, a 40-year-old school bus driver told OHCHR that, in the early morning of 20 April, the Israel Defense Forces

raided his house and confiscated approximately 650 new shekels, claiming that these were funds for Hamas. They also confiscated his bus, which provides his livelihood, giving no reason therefor. Another businessman from Silwad had over 72,000 new shekels confiscated, including money from his children's savings.

27. The actions of the Israel Defense Forces in Silwad were given wide publicity in the Israeli media, with official statements claiming that they were "part of the 'concept of expanded prevention' for taking action against all the circles of support for the terrorist and his family".[33] No evidence was provided by the spokesperson that the money confiscated had any link to Hamas.

Gaza blockade and closure

28. The Secretary-General has repeatedly expressed his concern over the impact of the Gaza closures on the life of the civilian population, underlining that it may amount to collective punishment, which is prohibited under international law.[34] After nearly 10 years since the violent Hamas takeover of the Gaza Strip and the subsequent decision by Israel to intensify the closures on Gaza, the residents of Gaza are disproportionately affected by the restrictions on people and goods resulting from the blockade and closures, as well as from the unilateral declaration and enforcement by Israel of access-restricted areas.[35]

29. The reporting period saw a significant reduction in the movement of people to and from Gaza through Erez, the only crossing point available for people to cross from Gaza to Israel and the West Bank. Continued restrictions were imposed by the Egyptian authorities on the movement of people through the Rafah border crossing, which remained largely closed during the reporting period, except on very limited occasions. At the end of the reporting period, at least 20,000 people, including humanitarian cases, were waiting to cross into Egypt.[36]

30. During the reporting period, thousands of requests made to the Israeli authorities for permits to cross Erez went unanswered.[37] Out of the total permit requests made to Israeli authorities during the reporting period (70,939), 45.2 per cent did not receive a response.[38] Although the denial rate (14.3 per cent)[39] has decreased compared with the period from June 2015 to May 2016,[40] the rate of permit requests that went unanswered increased from 26.8 per cent in the previous period. United Nations national staff were also affected. Of the total monthly permit requests made on behalf of those employees during the period from June 2015 to March 2017, an average of 20 per cent went unanswered, and 35 per cent were denied.[41] While the aggregation of the denial rate and the rate of the permits that went unanswered accounts for 55 per cent of the permit requests made on behalf of those employees, and shows a 21 per cent decrease compared with the number of

[33] Judah Ari Gross, "IDF again raids Palestinian car rammer's hometown", 13 April 2017. Available from www.timesofisrael.com/idf-again-raids-palestinian-car-rammers-hometown/.

[34] A/HRC/34/38, para. 30.

[35] A/HRC/34/36, para. 36.

[36] Gaza crossings' operations status: monthly update — May 2017, 10 June 2017. Available from www.ochaopt.org/sites/default/files/gaza_crossings_operations_status_may_2017.pdf.

[37] That is, the permit is either misplaced, or is still under review either by the Coordination and Liaison Administration for Gaza or by Israeli intelligence, which conducts the security clearance of applicants.

[38] Information directly from the Palestinian Authority, General Authority of Civil Affairs.

[39] Ibid.

[40] Of the 93,873 permit requests made, 15,475 (or 16.4 per cent) were denied. Information directly from the Palestinian Authority, General Authority of Civil Affairs.

[41] Information directly from the Access Coordination Unit of the Office of the Resident and Humanitarian Coordinator.

permit requests that were denied or went unanswered during the period from June 2015 to May 2016,[42] the rate remains of particular concern, as it suggests that more than half of United Nations national staff were, in practice, not allowed to carry out their duties outside Gaza during the reporting period.

31. Rejections or delays in the granting of permits have also had a negative impact on patients. Although the monthly denial rate for patients' permits decreased from 6.6 per cent during the period from June 2015 to May 2016 to 5.8 per cent during the current reporting period, the monthly rate of unanswered permits almost doubled, from 20.8 per cent to 38 per cent.[43]

32. In other instances, patients were granted permits to cross Erez for medical treatment outside Gaza but were reportedly stopped by Israeli security forces at Erez and asked to provide information about armed groups in Gaza. Reportedly, those who did not cooperate with Israeli security forces had their access to medical care outside Gaza blocked, raising concerns as to the respect of international humanitarian law.[44] For example, a 36-year-old female cancer patient was granted a permit to cross Erez for medical treatment at Augusta Victoria Hospital in East Jerusalem on 22 February 2017. She told OHCHR that, as she was crossing Erez, she was stopped by Israeli security forces and asked to provide information about one of her relatives allegedly affiliated with an armed group in Gaza. She alleged that, as a result of her failure to provide the requested details, she was prevented from crossing and was forced to return to Gaza.

33. The limited access to work, movement restrictions, recurring hostilities and deepening political divisions brought the civilian population into an acute humanitarian crisis, with 40 per cent of the population living below the poverty line.[45] One in two people suffered from food insecurity and one in three from severe food insecurity.[46] Approximately 912,000 refugees depended on humanitarian aid to survive.[47] Despite significant progress during the reporting period in the reconstruction of the houses that were destroyed during the conflict in 2014, over 6,300 families (approximately 33,000 people) reportedly remained displaced by the end of May 2017.[48]

34. The enforcement by the Israel Defense Forces of the unilaterally imposed access-restricted areas on land has had a significant impact on the 113,000 people living in the proximity of those areas, particularly farmers. Israeli measures in the access-restricted areas, including regular military incursions, clashes and shootings along the fence, levelling of land and damage to property have had a devastating

[42] The monthly approval rate for permit requests made on behalf of these employees during the period from June 2015 to May 2016 was estimated at 24 per cent, which suggests that 76 per cent of the requests were either denied or remained under security review or went unanswered. See A/71/364, para. 32.

[43] Information directly from the World Health Organization.

[44] Fourth Geneva Convention, arts. 27 and 31.

[45] United Nations Development Programme, "USD 5 million for youth job creation programme in Gaza: Palestinian Ministry of Labour and UNDP sign agreement with funds from Islamic Development Bank", 28 July 2016. Available from www.ps.undp.org/content/papp/en/home/presscenter/pressreleases/2016/07/28/usd-5-million-for-youth-job-creation-programme-in-gaza.html.

[46] World Food Programme, "Where we work: State of Palestine", 2017. Available from www1.wfp.org/countries/state-palestine.

[47] United Nations Relief and Works Agency for Palestine Refugees in the Near East, "Emergency appeal 2017", p. 2.

[48] "Palestine", fact sheet, May 2017. Available from www.sheltercluster.org/sites/default/files/docs/one_page_factsheet_may_2017.pdf.

impact on their rights and on their standard of living.[49] For example, since the end of the 2014 hostilities, the Israel Defense Forces have reportedly sprayed herbicides twice a year (in December–January and April) on Palestinian farmlands located close to the fence,[50] adversely affecting farmers.[51] The spraying of herbicides in January 2017 reportedly affected over 2,900 dunums, causing 270 farmers a combined estimated loss of $1.3 million.[52] Israel has accused militant groups in Gaza of digging tunnels beneath the fence into its territory for offensive purposes and, consequently, has undertaken the spraying of herbicides to "enable optimal and continuous security operations".[53]

35. Similarly, the fishing industry has been significantly undermined by the Israeli naval blockade, land closures and depletion of resources in the small and overused permitted fishing zone. The maintenance of a limited fishing zone by the Israel Defense Forces, including use of force, confiscation and damage to fishing boats, has further affected an already diminished fishing fleet. An estimated 35 fishing boats were reportedly confiscated and damaged by the Israeli navy during the reporting period.[54] As at January 2017, the number of fishers in Gaza had reportedly dropped to approximately 4,000, from 10,000 in 2000. Almost half of them were out of work owing to the shortage of supplies and their inability to repair their boats, as a result of the restrictions imposed by Israel on the entry of raw materials into Gaza, including fibreglass, steel cables, engines and spare parts. Such cumulative measures have reportedly impoverished the large majority of fishers, leaving 95 per cent of them living under the poverty line as at the beginning of 2017. In May 2017, the fishing zone was extended from six nautical miles to nine nautical miles for one month in the sea south of Gaza city.[55]

C. Detention and hunger strikes

36. Official data on the number of Palestinians held in Israeli detention facilities have not been made available by the Israel Prison Service since mid-2016. According to the Palestinian organization Addameer Prisoners Support and Human Rights Association, the number of Palestinian detainees decreased from approximately 7,000 as at 1 June 2016 to some 6,200 as at 31 May 2017.[56] The number of children in detention also decreased from 414 to 331 as at 31 May 2017.[57] However, there was a sharp increase in arrests by Israeli authorities of members of the Palestinian Legislative Council in early 2017. Nine Council members, most of them affiliated with Hamas, were arrested in the West Bank during the reporting period, of whom eight remain held in administrative detention.

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[49] Premiere Urgence Internationale, "Access-restricted area in the Gaza Strip: farmers' inability to access their lands", fact sheet. Available from www.europarl.europa.eu/meetdocs/2014_2019/documents/dpal/dv/4c_pui_ara_factsheet_final_2016/4c_pui_ara_factsheet_final_2016en.pdf.

[50] B'Tselem, "Military sprays herbicides along Gaza border, destroying crops in 200 hectares", 9 March 2017. Available from www.btselem.org/gaza_strip/20170309_crops_sprayed_with_herbicide.

[51] Gisha: Legal Centre for Freedom of Movement, "Gaza farmers: Israel sprayed herbicides in the Gaza Strip again", 7 January 2016. Available from http://gisha.org/updates/4830.

[52] Monthly humanitarian bulletin, April 2017, p. 6.

[53] Gisha, "Gaza farmers".

[54] Information directly from Al-Mezan Centre for Human Rights.

[55] B'Tselem, "Israel destroying Gaza's fishing sector", 29 January 2017. Available from www.btselem.org/gaza_strip/20170129_killing_the_fishing_sector.

[56] See Addameer Prisoners Support and Human Rights Association, "Statistics", August 2017, available from www.addameer.org/statistics; see also B'Tselem, "Statistics on Palestinians in the custody of the Israeli security forces", 9 August 2017, available from www.btselem.org/statistics/detainees_and_prisoners.

[57] Information directly from the United Nations Children's Fund.

One additional Council member, Hassan Yousef, who was arrested in 2015, had his administrative detention renewed in April 2017.

37. At the end of April 2017, an estimated 500 Palestinians were held in administrative detention.[58] The Secretary-General and various human rights bodies have previously called for an end to the Israeli practice of administrative detention, which is inconsistent with the exceptional nature of administrative detention under international humanitarian law, as well as key safeguards of article 9 of the International Covenant on Civil and Political Rights.[59]

38. Most Palestinian prisoners detained by Israel are reportedly held in facilities located outside the Occupied Palestinian Territory. The transfer of protected persons, including those accused of offences, to the territory of the occupying Power is prohibited under the Fourth Geneva Convention of 1949.[60] This creates additional difficulties for family members wishing to visit detained relatives, as residents of the West Bank and Gaza face considerable barriers in securing permits to travel to the detention facilities. This and other practical concerns relating to visits and contact with families, along with requests for improved conditions in detention, formed the bases of the demands by Palestinian detainees during a mass hunger strike in April and May 2017. Between 850 and 1,500 prisoners went on hunger strike for a period of 40 days, which ended only on 27 May, after an agreement was reached with the Israeli authorities.[61]

39. In a statement on 3 May 2017, the International Committee of the Red Cross (ICRC) highlighted "the systematic suspension by Israeli authorities of family visits for detainees on hunger strike, and of the permits for their families" and stated that "according to the Fourth Geneva Convention of 1949, Palestinians are entitled to these visits, which can only be limited for security reasons, on a case-by-case basis, but never for punitive or disciplinary purposes".[62] The High Commissioner for Human Rights also raised concerns at reports of punitive measures by Israeli authorities against the hunger strikers, including restricted access to lawyers and the denial of family visits.[63]

40. Some hunger strikers interviewed by OHCHR following their release provided detailed accounts of the response of the Israel Prison Service to the strike, including the isolation of prisoners participating in the strike, repeat transfers from one facility to another, and daily body and room searches. Some of the measures appear to have been punitive. They include restricting the access of hunger-striking prisoners to outdoor recreation, television, radio and other facilities; denying them access to basic hygiene facilities such as showers, haircuts, shaving and nail clipping; and confiscating their clothes, shoes and mattresses. Some of the restrictions were reported to be accompanied by prison guards explicitly telling

[58] See Addameer, "Statistics"; see also B'Tselem, "Statistics on administrative detention", 9 January 2017, available from www.btselem.org/administrative_detention/statistics.

[59] A/HRC/34/38, para. 55.

[60] Fourth Geneva Convention, arts. 49 and 147.

[61] Addameer Prisoners Support and Human Rights Association, "Treatment of hunger strikers raises concern amongst rights organizations", 8 May 2017, available from www.addameer.org/news/treatment-hunger-strikers-raises-concern-amongst-rights-organizations; and "Get the facts on Palestinian hunger strikes", 25 April 2017, available from http://www.addameer.org/news/get-facts-palestinian-hunger-strikes; and Omar Shakir, "Hunger strikes highlight isolation of Palestinian prisoners", 2 May 2017, available from www.hrw.org/news/2017/05/02/hunger-strikes-highlight-isolation-palestinian-prisoners.

[62] ICRC, "Detainees' contacts with families are Israel's obligation under IHL", 3 May 2017. Available from http://blogs.icrc.org/ilot/2017/05/03/detainees-contacts-families-israel-s-obligation-ihl/.

[63] OHCHR, "Zeid urges Israel to respect the human rights of detainees", 24 May 2017. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21659.

prisoners that the measures would end if the hunger strike were called off. Hunger strikers also informed OHCHR of threats and ill treatment by prison service nurses; delayed and negligent responses by prison guards to urgent medical situations; and fines being imposed as punishment for their protest.

41. A total of 330 Palestinians from the Gaza Strip were being held in Israeli detention facilities at the end of the reporting period.[64] Some 145 Palestinians from the Gaza Strip, including 23 children, were arrested by Israeli security forces.[65] Although most of those arrested from Gaza were usually released after a short period, there are concerns of delayed access to legal counsel for some detainees. For example, on 19 April 2017, a female cancer patient and her sister were arrested by the Israeli security forces at Erez while on their way to medical treatment in a West Bank hospital. Although the patient was released the same evening, the companion remained in detention after having been charged on 18 May for smuggling explosives. OHCHR learned that she was not allowed to see a lawyer for 11 days. In another case, a 27-year-old fisherman, who was arrested by the Israeli navy along with his brother while at sea on 4 December 2016, remained in detention for nearly 18 days. His brother was released the same day, but the fisherman was transferred to the Ashqelon detention facility. He was accused of affiliation with an armed group and reported that he had been intimidated and abused during the interrogation, both verbally and physically. He disclosed that he had not been permitted access to legal counsel until 10 days after his arrest and that he met with an ICRC delegation only 1 day prior to his release on 22 December 2016. He said that he had not been charged with any offence.

Practices relating to human rights work

42. Imad Abu Shamsiyya, a resident of Tel Rumeida in Hebron, had documented in March 2016 the apparent extrajudicial execution by an Israel Defense Forces soldier of a Palestinian assailant who was lying wounded on the ground.[66] Since then, Mr. Abu Shamsiyya has reportedly faced a number of attacks, including with firebombs and large stones thrown at his house. He told the media that members of the indicted soldier's family had broken into his house and asked him to change his testimony to the court.[67] On 7 January 2017, a crowd of settlers also attempted to break into his house. Forced to flee briefly, he has since returned to his home, which he has surrounded with metal net fences, with a net ceiling covering the outdoor patio.[68]

43. Others continue to face legal challenges owing to their human rights work, including for participation in peaceful protests, which effectively are banned by Israel Defense Forces regulations in the West Bank.[69] Badee Dwaik, Younes Arar, Anan Dana and Ishaq al-Khateeb, from Hebron, are currently facing trial before a military court on charges including "participating in an illegal demonstration", "being in a closed military zone" and "interfering with security officers' work". According to OHCHR, the charges stem from a peaceful demonstration on

[64] See Addameer, "Statistics"; see also B'Tselem, "Statistics on Palestinians from the Gaza Strip in the custody of the Israeli security forces", 9 August 2017, available from www.btselem.org/statistics/gaza_detainees_and_prisoners.

[65] Information directly from Al-Mezan Centre for Human Rights.

[66] A/71/364, para. 9.

[67] Ma'an News Agency, "Activist who filmed Hebron shooting 'fears for his life' after Israeli soldier convicted", 5 January 2017. Available from www.maannews.com/Content.aspx?id=774749.

[68] Humanitarian bulletin: occupied Palestinian territory, 12 April 2017, p. 9. Available from www.ochaopt.org/sites/default/files/ocha_opt_the_humanitarian_monitor_2017_04_12_english.pdf.

[69] Israel, *Order Regarding Prohibition of Incitement and Hostile Propaganda Actions*, Order No. 101, 27 August 1967.

30 March 2017 and would therefore constitute a violation of their rights to freedom of expression and peaceful assembly. Issa Amro and Farid al Atrash are facing similar charges, although some of the incidents for which they are charged date as far back as 2010, strongly suggesting that they are being targeted for their human rights work as pointed out by two United Nations independent experts.[70]

44. According to OHCHR, a number of other Palestinians continued to be held under administrative detention by Israel, which was renewed during the reporting period. They include circus performer Mohammad Faisal Abu Sakha (third detention order, held since December 2015); Hasan Safadi of Addameer (second detention order, held since May 2016); and Hassan Karajah of the Stop the Wall campaign (second detention order, held since July 2016). Like others held under administrative detention, they have not been charged or brought to trial, and no evidence of wrongdoing has been brought against them, raising concerns that their detention is related to their human rights work.

45. On 6 March 2017, the Knesset passed an amendment to the Entry into Israel Law (Amendment No. 28, No. 5777-2017) which prohibits the granting of a visa or licence to persons who are not citizens or permanent residents of Israel if they or the organization for which they work has knowingly issued a public call to impose a boycott on Israel, or has committed to participating in such a boycott. The definition of "boycott" is explicitly stated in the 2011 Boycott Law and includes boycotts aimed at Israeli settlements located in occupied territory.[71]

46. The amendment is worded broadly, automatically prohibiting the issuance of visas in the circumstances stated, to which the Minister of the Interior is authorized to make exceptions with reasons provided in writing. Although a subsequent government statement in May 2017 suggested that the law would be enforced only against prominent activists engaged in direct, consistent and continuous actions that promoted boycotts or those who held senior or significant positions in prominent "delegitimization" organizations,[72] the law has reportedly already had a deterring effect. For example, Americans for Peace Now, a Jewish-American organization that supports a boycott of settlements, announced the indefinite suspension of its annual Israel study tour programme, as it feared that its delegates might be refused entry or deported.[73] While States have the right to control immigration and entry, any restrictions placed must be consistent with international human rights law.

D. Lack of accountability for alleged violations of international human rights and humanitarian law

47. International law requires that all reasonable steps be taken to ensure a prompt, thorough, effective, independent and impartial investigation into alleged

[70] OHCHR, "Human rights defenders under growing legal pressure in the OPT — UN rights experts", 16 December 2016. Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21041.

[71] In accordance with the Law for the Prevention of Damage to the State of Israel through Boycott (No. 5771-2011), boycott is defined as deliberately avoiding all economic, cultural or academic ties with an individual or other body, based solely on its affiliation with Israel or any of its institutions or area under its control, in a manner that would cause economic, cultural or academic harm.

[72] Association for Civil Rights in Israel, "Clarifications to the Entry to Israel Law", 23 May 2017. Available from www.acri.org.il/en/2017/05/23/clarifications-to-the-entry-to-israel-law/.

[73] Americans for Peace Now, "Annual study tour cancelled — letter to prospective participants", 20 April 2017. Available from http://peacenow.org/entry.php?id=23741#.WYw6UVWg-M9.

human rights violations, including of the right to life.[74] In the context of the access-restricted areas in the West Bank and Gaza, where Israeli security forces operate in the absence of ongoing hostilities, the authorities should investigate any incident where individuals are killed or suffer serious injury. The Turkel Commission, appointed by the Government of Israel, reached a similar conclusion.[75] Israel also has a lengthy list of mechanisms and bodies in place for the supervision of law enforcement agencies.[76] Furthermore, since 2011, a policy has ostensibly been in place that requires that the death of every Palestinian resulting from the action of the Israel Defense Forces in the West Bank be criminally investigated, unless there were "clear elements of combat (e.g. fire exchange)".[77] However, the policy does not appear to have been translated consistently into action.

48. In the period from October 2015 to March 2017, 269 Palestinians were killed by the Israel Defense Forces, of whom 176 were killed while carrying out or allegedly carrying out attacks against Israelis.[78] During that period, only 24 investigations were opened into suspected unlawful use of force by the Israel Defense Forces that resulted in Palestinian fatalities.[79] In comparison, the Israel Defense Forces opened 41 criminal investigations into the deaths of Palestinians in 2014 and 27 in 2015.[80] As the number of Palestinians killed has risen dramatically since late 2015,[81] this has not been the case for the number of criminal investigations, suggesting that most incidents since late 2015 are being interpreted as having taken place in the context of "combat activity".[82] Such a broad interpretation of combat, including knife attacks, seriously undermines the policy. In the absence of criminal investigations, the sole remaining mechanism is an "operational debriefing" carried out within the command unit of the Israel Defense Forces soldiers involved in the incident, a mechanism that has been criticized as inadequate for accountability purposes by the Turkel Commission.[83]

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[74] Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 15.

[75] Turkel Commission, second report, pp. 104–106 (paras. 51–54).

[76] Israel, Ministry of Justice, Legal Counselling and Legislation Department (International Law), "Mechanisms of review and supervision of law enforcement agencies with regard to alleged cases of excessive use of force and ill treatment", available from www.justice.gov.il/Units/YeutzVehakika/InternationalLaw/MainDocs1/Mechanisms.pdf; see also A/71/364, paras. 61–65.

[77] Israel, Ministry of Foreign Affairs, "New investigation policy regarding Palestinian casualties from IDF fire in Judea and Samaria", 6 April 2011. Available from http://mfa.gov.il/MFA/AboutIsrael/State/Law/Pages/New_investigation_policy_Palestinian_casualties_IDF_fire_Judea_Samaria_6-Apr-2011.aspx.

[78] Information provided by the Office for the Coordination of Humanitarian Affairs.

[79] Update from the Ministry of Justice of Israel to the Office of the United Nations Special Coordinator for the Middle East Peace Process, 18 April 2017. During the same period, however, the Office of the Military Advocate General prosecuted a large number of Palestinians ("35 murder trials and hundreds of attempted murder trials"), Judah Ari Gross, "Israel's military advocate general defends trial of Hebron shooter", 10 May 2017 Available from www.timesofisrael.com/israels-military-advocate-general-defends-taking-hebron-shooter-to-trial/.

[80] Yesh Din — Volunteers for Human Rights, "December 2016 data sheet: law enforcement on IDF soldiers suspected of harming Palestinians — summary of 2015 data", 2 January 2017. Available from www.yesh-din.org/en/december-2016-data-sheet-law-enforcement-idf-soldiers-suspected-harming-palestinians-summary-2015-data/.

[81] A/71/364, para. 3.

[82] Ibid., paras. 42 and 46. See also Israel, "The 2014 Gaza conflict (7 July–26 August 2014): factual and legal aspects", May 2015, para. 424. Available from http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf.

[83] Turkel Commission, second report, pp. 378–383. In fact, according to the Military Advocate General, the primary purpose of operational debriefings is to serve as "an organizational tool in order to 'improve the performance of military units' and in order to learn lessons", see pp. 381–382.

49. Of the 24 criminal investigations opened by the Israel Defense Forces between October 2015 and March 2017, 5 were closed, 3 were ongoing, and 1 was transferred for additional investigation. As at 18 April, 14 cases were pending with the Military Advocate General for a decision on whether to issue an indictment, and 1 case had led to an indictment (see below). According to the Office for the Coordination of Humanitarian Affairs, 14,159 Palestinians were injured in Israel and the West Bank, including East Jerusalem, during the same period, but only seven investigations appear to have been opened by the Israel Defense Forces (1 case closed, 2 ongoing, 3 transferred for additional investigation and 1 pending with the Military Advocate General).[84]

50. Information on police and border police is partial, but only two criminal investigations appear to have been opened into the suspected unlawful killings of Palestinians between October 2015 and June 2016.[85] One such investigation was carried out with respect to a police officer who killed a scissors-wielding 14-year-old girl in West Jerusalem in November 2015 while she lay wounded on the floor, a case in connection with which the Secretary-General had raised concerns over a possible extrajudicial execution.[86] Publicly available video footage showed the repeated use of firearms against the girl, which continued even after any possible threat had ended.[87] In April 2017, investigators from the Ministry of Justice reportedly closed the investigation after concluding that there was no evidence of criminal conduct.[88] No police personnel are known to have been indicted for killing or injuring any Palestinians since October 2015.

51. As the High Commissioner for Human Rights has noted, "a suspicious death occurring anywhere in the world is potentially a violation of the right to life, ... and therefore a prompt, impartial and effective investigation is key to ensuring that a culture of accountability — rather than impunity — prevails".[89] This appears to be the situation in the Occupied Palestinian Territory, with a continuing climate of use of excessive force and a general lack of accountability. The apparent disregard by Israel for international law and standards and its failure to ensure proper investigation and accountability for the killing and injuring of Palestinians in the Occupied Palestinian Territory, particularly over the past two years, raise serious concerns as to its obligations to respect and ensure respect for international humanitarian and human rights law.

52. In only one case, a soldier was convicted of manslaughter, the first such conviction in over a decade. The solder was sentenced to 18 months of

[84] A total of 44 other investigations were also carried out by the Israel Defense Forces (related mostly to violence and property offences), which led to one disciplinary action and three indictments. Of the rest, 12 cases were still ongoing, 4 were transferred for additional investigation, 15 were transferred to the Military Advocate General, awaiting decision, and 9 were closed.

[85] Information received by the Office of the United Nations Special Coordinator for the Middle East Peace Process from Israeli authorities. In an additional 51 incidents, enquiries did not lead to a criminal investigation.

[86] A/71/364, para. 8.

[87] Arutz Sheva TV, "Documentation of stabbing attack in Jerusalem", 23 November 2015, available from www.youtube.com/watch?v=aw8eYodVrVs; B'Tselem, "Unjustified use of lethal force and execution of Palestinians who stabbed or were suspected of attempted stabbings", 16 December 2015, available from www.btselem.org/gunfire/20151216_cases_of_unjustified_gunfire_and_executions; Tamar Pileggi, "Case closed against cop who shot scissor-wielding Palestinian teen attackers", 24 April 2017, available from www.timesofisrael.com/case-closed-against-cop-who-shot-scissor-wielding-palestinian-teens/.

[88] Sharon Pulwer, "Israel closes case against cop who shot two scissor-wielding Palestinian teen attackers", *Haaretz*, 24 April 2017. Available from www.haaretz.com/israel-news/1.785299.

[89] *The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)* (United Nations publication, Sales No. E.17.XIV.3), foreword.

imprisonment for the shooting of a wounded unarmed man, the circumstances of which the Secretary-General previously noted may have constituted extrajudicial execution.[90] One month prior, a Palestinian man was sentenced to 18 years and a fine of 100,000 new shekels for manslaughter by a Jerusalem court for throwing stones at a car, which subsequently led to the death of the driver, who lost control of his vehicle.[91] As the High Commissioner for Human Rights noted, the "excessively lenient" sentence for the convicted soldier risks "undermining confidence in the justice system and reinforcing the culture of impunity".[92] On 30 June, the Military Appeals Court confirmed the conviction and the 18-month sentence.[93]

E. Gaza hostilities

53. The security situation in and around Gaza remained relatively stable, albeit tense and uncertain. During the reporting period, Palestinian armed groups fired over 30 rockets and 4 mortar shells. Ten landed in Israel, with no casualties reported. The Israel Defense Forces fired 87 missiles in 47 air strikes in the Gaza Strip, targeting mostly what appeared to be vacant military training sites and open and agricultural areas. The Israel Defense Forces also fired 110 artillery shells in 29 locations, reportedly injuring six people.[94]

54. There was one possible hostilities-related death during the reporting period. A 15-year-old boy was killed and another injured on 22 March 2017, when some 10 to 15 tank shells were fired at them east of Rafah. According to a spokesperson for the Israel Defense Forces, "three Palestinians were spotted making their way towards the Gaza border fence in southern Gaza and aroused the suspicion of IDF lookouts.... The three appeared to be doing something on the ground and were in a no-go area.... In response, a tank fired shells in their direction, and one of them was hit".[95] One of the three, a child, was killed. OHCHR monitoring suggests that the three were in the access-restricted areas while attempting to cross into Israel. There is no indication, or allegation, that they were armed or otherwise carrying out an activity that would suspend their protection as civilians. This raises concerns under international humanitarian law in relation to taking all feasible precautions in attacks, the principle of distinction and the prohibition on directing attacks against civilians. The incident is reportedly being investigated by the Israel Defense Forces.

55. The large majority of the Palestinian rockets fired during the reporting period appear to have been done so indiscriminately. Indiscriminate attacks are prohibited by international humanitarian law. Responding to a rocket attack by Palestinian armed groups on 6 February 2017, the Israel Defense Forces conducted 9 air strikes and fired 10 shells, targeting largely vacant military training sites and open areas, and injuring one 69-year-old Palestinian. The Chief of Staff of the Israel Defense Forces reportedly stated that, since the 2014 hostilities, the Israel Defense Forces

[90] A/71/364, para. 9, and A/71/355, para. 8.

[91] Agence France-Presse and Times of Israel staff, "Israeli court approves 18-year term for Palestinian killer", 24 January 2017. Available from www.timesofisrael.com/israeli-court-approves-18-year-term-for-palestinian-killer/.

[92] OHCHR, press briefing note on Israel: Elor Azaria case, 24 February 2017. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21221.

[93] Gili Cohen, Barak Ravid and Jonathan Lis, "Hebron shooter loses manslaughter appeal, Israeli soldier to serve full 18-month sentence", *Haaretz*, 30 July 2017. Available from www.haaretz.com/israel-news/1.804122.

[94] Information directly from the Department of Safety and Security of the Secretariat.

[95] Yoav Zitun and Elior Levy, "IDF fires at 3 suspicious Palestinians on Gaza border, one killed", 22 March 2017. Available from www.ynetnews.com/articles/0,7340,L-4938915,00.html.

have been employing "a policy of using aggressive, and disproportionate, force" against Hamas in response to rocket attacks from Gaza.[96]

56. In August 2016, the Military Advocate General released updated information with respect to investigations into the violations of international humanitarian and human rights law during the 2014 hostilities: out of 500 complaints related to 360 incidents referred to the Military Advocate General, investigations were ordered into 31 incidents only, and three indictments were issued for looting.[97] Eighty additional cases examined by the fact-finding mechanism[98] were closed on the grounds that the actions of the Israel Defense Forces did not give rise to reasonable grounds for suspicion of criminal behaviour.[99]

IV. Conclusions

57. **The present report builds on previous reports of the Secretary-General and the United Nations High Commissioner for Human Rights in highlighting some of the ongoing patterns in human rights violations in the Occupied Palestinian Territory. Violations relating to the use of force, detention, the ability of human rights defenders to carry out their work and instances of collective punishment continued during the reporting period.**

58. **The persistence of serious challenges to ensuring accountability for violations of international human rights and humanitarian law against Palestinians will continue to create a more permissive environment for the commission of such violations. Despite efforts to strengthen the system of accountability, including through the establishment of relevant mechanisms and bodies and the adoption of targeted policies, critical steps to ensure the consistent application and operationality of such a system remain unimplemented or not followed in practice. The existence of mechanisms and processes alone is not sufficient in the absence of consistent implementation.**

V. Recommendations

59. **The following recommendations should be read in conjunction with the numerous recommendations contained in previous reports of the Secretary-General and the High Commissioner for Human Rights:**

(a) **Israel should conduct prompt, thorough, effective, independent and impartial criminal investigations in all instances in which Palestinians are killed or seriously injured in the context of law enforcement. Those responsible should be held accountable in full compliance with international law and standards, with charges and sentences commensurate with the gravity of the offences. The accountability of command leadership for repeated or systemic failures to comply with relevant rules and regulations and applicable standards of international law should be ensured;**

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[96] Jonathan Lis, "Israeli army responds 'disproportionately' to Gaza rocket fire, Chief of Staff says", *Haaretz*, 22 March 2017. Available from www.haaretz.com/israel-news/1.778806.

[97] Military Advocate General's Corps, "Decisions of the IDF MAG regarding exceptional incidents that allegedly occurred during Operation 'Protective Edge' — update No. 5", 24 August 2016. Available from www.law.idf.il/163-7596-en/Patzar.aspx.

[98] Military Advocate General's Corps, "Operation Protective Edge: examinations and investigation", 10 September 2014. Available from www.mag.idf.il/261-6858-en/patzar.aspx.

[99] A/HRC/34/36, para. 46.

(b) Israel should ensure that the rules on the use of force in the context of law enforcement are fully consistent with international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; where this is already so, ensure that the rules are appropriately, lawfully and consistently applied by all Israeli security forces personnel throughout the West Bank, including East Jerusalem, and in the Gaza access-restricted areas;

(c) Israel should end all practices that constitute collective punishment;

(d) In the Occupied Palestinian Territory, including Gaza and East Jerusalem, Israel should lift the blockade of Gaza, end punitive closures and ensure that the right to freedom of movement by all residents of the constituent parts of the Occupied Territory is respected; in the interim, it should ensure that the rights of the residents of Gaza are protected by enabling sustainable economic recovery and development through the facilitation of access to and from Gaza to people and goods;

(e) Israel should promptly end the practice of unlawful administrative detention, that is, charge and try promptly, or immediately release, any detainees currently held in unlawful administrative detention; ensure that all Palestinian detainees are held in facilities located in the occupied territory; in the interim, ensure that the right to family visits and contact with family are not hindered through the restrictive issuance of permits or other measures;

(f) Israeli authorities should respect and protect the rights of human rights defenders and release without charge, as well as suspend procedures against, all individuals who have been detained or charged as a result of engaging in human rights work;

(g) Israel should ensure that all persons are able to exercise peacefully their rights to freedom of expression and assembly that are held in accordance with international human rights law without the threat of legal or administrative penalties;

(h) Israel should take all measures to ensure full respect for international humanitarian law, particularly in respect of civilians living under occupation, and in the conduct of hostilities, and ensure accountability for all violations.